

Planning Committee

6.00 pm, 22 June 2017

Present at the meeting

Councillor Garth Barnes (Chair)	Councillor Chris Nelson
Councillor Bernard Fisher (Vice-Chair)	Councillor Tony Oliver
Councillor Paul Baker	Councillor Louis Savage
Councillor Mike Collins	Councillor Pat Thornton
Councillor Colin Hay	Councillor Simon Wheeler
Councillor Karl Hobley	Councillor Matt Babbage (Reserve)
Councillor Adam Lillywhite	Councillor Paul McCloskey (Reserve)
Councillor Helena McCloskey	

In attendance, as a speaker: Councillor John Payne

Officers in attendance

Tracey Crews, Director of Planning (TC)
 Martin Chandler, Team Leader, Development Management (MC)
 Emma Pickernell, Senior Planning Officer (EP)
 Ben Hawkes, Planning Officer (BH)
 Claire Donnelly, Planning Officer (CD)
 Adam Dyer, Heritage & Conservation Officer (AD)
 Chris Chavasse, Senior Trees Officer (CC)
 Annie Holdstock, Trees Officer (AH)
 Nick Jonathan, Legal Officer (NJ)

143. Apologies

Councillors Seacome and Hegenbarth.

144. Declarations of Interest

17/00827/CACN 41 Church Road
 Councillor Fisher – knows the applicant – will leave the Chamber.

145. Declarations of independent site visits

Councillor Baker has visited the following sites:

- **17/00882/FUL** 8-10 Bouncers Lane
- **17/00386/FUL** 8 Hartley Close
- **17/00827/CACN** 41 Church Road

146. Public Questions

There were none.

147. Minutes of last meeting

Resolved, that the minutes of the meeting held on 25th May 2017 be approved and signed as a correct record *without* corrections

148. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications

149. 16/02205/FUL The Hayloft, The Reddings

Application Number:	16/02205/FUL
Location:	The Hayloft, The Reddings, Cheltenham
Proposal:	Retention of works carried out; including those under planning permission reference 14/02249/FUL as well as the removal and replacement of elements of the original Hayloft building not covered by planning permission reference 14/02249/FUL and minor alterations to the approved scheme.
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Refuse
Letters of Rep:	21
Update Report:	Additional representations

EP introduced this application, and explained some of its complex history: permission for extension of the existing dwelling was granted in 2014, and subsequent work has been done which falls under permitted development rights. Since work commenced, however, all that remained of the original dwelling has been demolished and new elements constructed without planning permission. As this work was not lawfully executed, this application seeks to rectify the situation. The resultant dwelling is the same size as that for which permission was granted in 2014, but with a side element, first floor addition, and fenestration amendments. The 2014 consent cannot be implemented, as nothing remains of the original dwelling, but officers consider that what has been built does not cause any additional harm, with regard to design, neighbouring amenity, or impact on the openness of the green belt. As such, the recommendation is to permit.

Public Speaking:

Mr Peter Swales, neighbour, in objection

The Hayloft site has been subject to a raft of applications since 2005, two of which are relevant to the current one. In 2012, Planning Committee gave permission for a replacement dwelling of contemporary design, approximately 4,000 square feet – similar to the original building. Constructions started and it soon became apparent that what was being done bore no relation to the approved plans. Work stopped, and in December 2014 a new application for extensions (part retrospective) was made, including a massive basement and ground floor extension to the rear, and major changes to the lay-out and orientation of the rest of the building. This increased the overall size to approximately 7,000 square feet, but the application was approved by the planning department without going back to Planning Committee. Construction started again, and it was soon clear that this building was not in accordance with approved plans; a stop notice was issued, and the current planning application was subsequently made. The proposed building is now over 8,000 square feet – a true monster – and totally inappropriate for an important site on the border of the green belt. This alone is grounds to reject the proposal.

In view of the previous devious manoeuvrings of the developer, it is hard to believe that this building is intended to be a single dwelling: the word 'dwelling' no longer appears in the title of the application; the rooms are labelled 'dining room'. 'drawing room' etc, but this doesn't appear to be genuine attempt to design a house of this size and status – it would not be marketable; the design and lay-out is more suited to 12 or 13 self-contained apartments.

The developer has proceeded with little regard to the requirements of the planning process, and if permission is granted tonight, other developers will be encouraged to behave in a similar fashion. If the committee does decide to approve the application, however, can a

condition be added to ensure that the building is used only as a single dwelling unit, as implied by the plans.

Ms Liz Shield, of SFPlanning, in support

The site has a long and complex planning history, but the principle of a dwelling of this size and footprint was established in the approved planning application in 2014. The current application relates to minor changes, including the provision of a flat roof and the positioning of windows and doors. It does not seek to intensify the use of the site, and highway and access arrangements are unchanged. The applicant has worked with planning officers to produce an appropriate design for the location. There are concerns about the removal of the remaining original wall, and that this was done to make it easier to get retrospective planning permission; this wasn't the case. The wall was in need of repair, and was considered by the applicants to be at odds with the rest of the building. The applicants do not have planning expertise and made a genuine error in removing the wall, which they are now keen to rectify. The application also includes some additional elements which require consent; the description of the development was discussed at length with CBC's planning and legal teams to ensure complete accuracy, and takes into account the minor works and removal of the original building. Local people are anxious to ensure the green belt is preserved; this application is for minor works within the previously approved footprint, so ensuring the openness of the green belt is preserved. Neighbours are also concerned about possible future uses of the site, but the lawful use of the site is as a single dwelling, and this application does not seek to change that. If any proposal for a change of use were to come forward, it would be applied for using the correct processes, and be determined by the Council on its merits, taking into account the views of local residents.

The report outlines the proposal's compliance with all relevant local and national policy, and the fact that material considerations weigh in favour of granting permission. The scheme is therefore worthy of Members' support and will have a beneficial impact on neighbours in terms of amenity, as well as having no impact on the green belt which they are so justifiably keen to preserve.

Councillor Britter, ward councillor, in objection

Is speaking on behalf of residents of The Reddings, who believe that the current application is invalid because it is for the retention of works carried out under the 2014 planning permission, but The Hayloft has been completely demolished and replaced with a wholly new building. As such it doesn't represent appropriate form of building in the green belt, and its scale and proportions are not in keeping with the environment or the area. This is at odds with Policy CO7, and the replacement building in its more prominent position detracts from the openness of the green belt, contrary to Policy CO8. Approval of this application would be in effect rewarding the developer for systematic breaches of the planning process and disregard for the green belt, which may encourage similar actions by others.

The majority of local people are disappointed by the lack of clarity, transparency and responsiveness, and the lack of response to their requests for information from the planning department has seriously undermined their confidence in the planning system.

Several applications have been submitted for this site, and each time the developers have flagrantly breached the approved scheme and built what they want; there can be no clearer example of the flagrant abuse of the planning system, which has warranted frequent involvement of the enforcement team. If this application is permitted, it makes a mockery of the whole planning process; granting approval for the retention of what is obviously an abuse of procedure would further undermine public confidence in the planning system. If the Council doesn't draw a line, it will encourage further breaches and make planning policy a travesty, sending a message to developers and residents that anything is possible without appropriate prior planning permission, that it is fine to build whatever you like in the area,

green belt or not, and then get retrospective planning permission; this brazen precedent sets a strong case to do just that.

The application should be refused on a number of grounds: one, it is an illegal development without planning permission; two, it is 'inappropriate development' in the green belt; three, it is devoid of architectural merit or sensitivity, visual or otherwise, to its surroundings; four, its size, depth, width, height and massing will adversely impact on neighbouring amenity; five, approval would reward the developer for breaching the planning process and disregarding the green belt; and six, it is detrimental to community cohesion, causing disputes and tensions between neighbours which will increase in the future.

Member debate:

PT: the neighbour speaking in objection asked if there could be a condition that this building is only used as a single dwelling. Various uses have been mentioned over the years, including one application for four apartments – is this extant?

PB: has several questions: can officers remind him of what Policy CO2 relates to?; is it true, as the speaker has said, that the footprint has doubled in size from 4,000 sq metres to 8,000 sq metres?; the speaker mentioned that the 2014 application was decided under delegated powers – is surprised that such a contentious application was not brought to Committee; and if this application is permitted, and the applicant then applies to convert the building into four apartments, would that application automatically come to Committee?

HM: Policy CO7 states that replacement dwellings in the green belt should be less than 15% bigger than the original dwelling. Does this proposal fulfill that requirement?

SW: Councillor Britter and the speaker said that the original building has now gone, which means that any proposed work under permitted development rights, or any further extensions, no longer stand – we are, in effect, looking at a brand new building in a greenfield site, asking for retrospective planning permission to build it. The question is whether we would allow this building to be built on a clear site in the green belt? No, we wouldn't. Is therefore not happy with this proposal. It is a new build, with no relevance to what was there before.

MC: in all his years in planning, has never come across a case like this. Having listened to the objections, read the representations, heard what the agent and Councillor Britter have to say, it would appear that the applicant and developer are waving two fingers at the planning process and the DCLG. Not just flouting the rules, they have shown a crass disregard for the full process. What are members being asked to approve today? This current application? The one before? What is the fall-back position if this application is refused? Why didn't the applicant build the scheme for which he had permission? Why has there been no activity on site since Christmas 2016? As a local ward member, receives many phone calls and visits from people in the ward; one phone call in particular stands out, from someone who would not give a name and address or any other details. This person, having made an objection on line, was visited by the applicant the following day, and found his behaviour very intimidating. The long history and tone of the objections says it all.

There is also a feeling among local people that this building will not be used as a single dwelling. It could easily be divided into several self-contained units. Officers tell us that if this is what the applicant wants, a change of use application will be needed, but this isn't a particularly comforting response, bearing in mind the applicant's flagrant disregard for the process. He is more likely to do what he wants, then apply retrospectively.

If the people of Cheltenham are to take any comfort, we need to stop these free hits. We have listened to both sides of the argument. If the application is refused, maybe CBC will be able to maintain some degree of public confidence in the process. There is nothing of any merit in this application; if enforcement action is required, we should stand by that, even if it

results in demolition of the building. The planning process must be respected. The application should be refused on the grounds of CO7 and CO8.

BF: when this site first came to the attention of the planning committee, read the letters of representation and went on site visit; was struck by the notion that this proposal could be said to comply with policy CP7. In the green belt, the design should be of the highest quality, but saw nothing of any quality in this building. Planning permission was previously given to alter the existing building, as it was before the planning permission was sought; now we are dealing with a new build. Has sat in on briefings about what constitutes good design, and can see nothing of that here. Policies CP4 and CP7 are relevant, with regard to the effect on neighbours. The building doesn't enhance the neighbourhood in any way, or have a balanced design. In addition, the quality of the the build and brickwork is very poor – it is an abomination. It would be best to start all over again and apply for a new permission to build on this site. For the current application, CP4 and C7 should be used as additional refusal reasons to those suggested by MC.

EP, in response:

- a condition can be attached to the permission to ensure that the building is used as a single dwelling.

PT: was actually asking about the previous application for four apartments – is this still extant?

EP, in response:

- no, that application was not implemented and has expired;
- to PB, policy CO2 is concerned with harm to the natural beauty of the AONB;
- it is true that the floorspace has doubled in square metres from the original Hayloft, before any extensions, to what is proposed now – this was permitted under the the previous application;
- as to why the 2014 application was decided under delegated powers, the council has a system of referral to Committee, and there was no request for a Committee decision on that proposal;
- any change of use from a single dwelling to flats would require planning permission, and officers can make a note that if such an application is received, Members would like it to come to Committee for a decision;
- to HM, Policy CO7 does set a limit of a maximum 15% increase in the size of a replacement dwelling in the green belt, but this related to permitted development rights at the time; the 2014 planning permission for extensions to the original dwelling, together with permitted development rights as they stand today, mean that the proposed dwelling will not exceed the limits set out in CO7;
- to MC, the fall-back position is for the 2012 consent for a new-build dwelling on the site. If the application being considered today is refused, this will be the only extant permission for this site;
- Members are being asked to approve works to the structure as it stands today; previous consents are material considerations, and it should be remembered that CBC permitted a structure of similar dimensions to what has been constructed;
- for the record, there has been no activity on the site since Christmas at the request of the enforcement team.

GB: has so far heard policies CO7, CO8 and CP7 suggested as reasons to refuse this application.

Members will need to vote on the officer recommendation to permit first.

Vote on officer recommendation to permit

0 in support

15 in objection – unanimous

Officer recommendation not carried

MJC, in response:

- if Members refuse the application, the enforcement team is likely to require demolition of the building. This is explained in the report, but it is important to raise the matter in the debate.

BF: regarding enforcement, a stop notice has already been served on the developer. If the current application is refused today, can the applicant appeal? If so, presumably no enforcement action will be taken until the applicant either wins or loses at appeal?

EP, in response:

- the applicant has the right to appeal. The matter has been discussed with enforcement officers; under these circumstances, the applicant only has 28 days in which to make an appeal instead of the usual six months. For any further enforcement action to be taken, the advice of officers will be required on the technicalities.

LS: is the house currently occupied?

[no]

GB: so if Members vote to refuse the application, what will happen next?

MJC, in response:

- not wishing to complicate matters, if Members refuse the application, an enforcement notice to demolish the building will be issued, and the applicant will have the opportunity to appeal against the enforcement notice;
- enforcement activity should be delegated to officers; if the application is refused, will Members want the enforcement notice to run in tandem with the appeal against the refusal to grant planning permission?

HM: as much of tonight's debate has been concerned with the applicant's disregard for the planning process, would like the Committee to follow the correct process and allow him 28 days in which to make an appeal.

PT: would like to see enforcement action taken and the building demolished, but whether or not to allow the applicant 28 days to appeal, will leave this to other Members to decide. Is not inclined to do so - the applicant has shamelessly manipulated the planning process.

MC: appreciates what officers are saying, but has heard nothing to change his mind. Would like enforcement officers to use their powers; if the building is demolished, so be it.

BF: as HM says, the applicant has disregarded planning rules, but if there is a legal requirement to give them 28 days to appeal, we should stick by the rules, then instigate any enforcement action.

MJC, in response:

- if Members want an enforcement notice served, this can be done, but it is right to discuss the merits of the case at Planning Committee;
- enforcement action can be delegated to officers in the enforcement team, who will make a judgement based on the facts of the case, whether to serve notice immediately or wait for 28 days;
- at appeal, the Inspector will consider whether demolition is proportionate to the harm the new building will cause; the previous planning permission is for a dwelling of the same size as the current one, and the impact on the green belt will be the same – hence the judgement on proportionality – is the remedy proportionate to the harm?

GB: do Members want to vote on whether to give the applicant 28 days to appeal or serve the enforcement notice straight away?

CH: what was the previous advice from officers? If the applicant is successful in his appeal, then by default he will be allowed to retain the building. If we leave it for 28 days before issuing the enforcement notice, will this mean the whole process takes much longer? Which is the cleaner way of doing it? Can officers explain, for clarity?

MJC, in response:

- this isn't a scenario which occurs very often; the cleaner way is serve an enforcement notice setting a time period for demolition – the applicant will appeal, the Inspector will consider the appeal and all matters concerning the case. It will be clearer if we have set out what we think should happen.

PT: this application goes back many years; we have run around long enough. Is sad it has come to this, but we have to draw a line.

GB: officers have heard what Members have said about this case. They need to take this away, talk to the enforcement team and take advice. The Chair and Vice-Chair can then make the final decision, based on that advice, and on Members' wishes. Further debate won't achieve anything at this stage.

MC: it would strengthen the case if officers take the will of the Committee to their discussion with enforcement officers.

GB: officers understand this already; more discussion won't be helpful.

Vote on move to allow 28 days before serving an enforcement notice

10 in support

4 in objection

1 abstention

CARRIED

Vote on MC's move to refuse on CO7, CO8 and CP7

15 in support – unanimous

MOTION CARRIED - REFUSE

150. 17/00365/FUL The Water Garden, Birchley Road

Application Number:	17/00364/FUL
Location:	The Water Garden, Birchley Road
Proposal:	Demolition of existing building and garage and replacement with two new detached dwellings
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	94
Update Report:	None

MJC introduced this application, to demolish a single dwelling, The Water Garden, and replace it with two houses. It is at Committee at the request of Councillor Babbage, due to the level of interest. The recommendation is to permit.

Public Speaking:

Mr Adrian Smith, on behalf of local residents, in objection

The application has been met with almost universal objection for several reasons. Firstly, it will breach the terms of the Battledown Trust Deed, which divided the estate into large 'lots', restricting the number of houses to be built on each lot, for density purposes and to avoid

overloading the Victorian sewers and roads. This lot is already 'full'. Officers say this is not a material consideration, but residents believe it is – because if this application is granted, other properties may follow suit, resulting in many additional houses which will destroy the Estate's semi-rural character. This application is therefore contrary to Policies CP1 and CP3.

Secondly, the application site is on a steep bend on a narrow road with no footpaths – an accident black spot. Not only will heavy construction traffic and machinery be a great worry, but the resulting increase in occupancy of the site will result in permanent additional traffic on this dangerous stretch of road. Highway officers have no objections, but the scheme relies on visibility splays on land not owned or controlled by the applicant. The application doesn't comply with the requirements of CP4b and TP1.

Thirdly, the brash, brutalist, four-storey design is not respectful of neighbouring properties, its ridge heights some two storeys higher than the properties to the north and south. It is disproportionate, overbearing, and will result in a significant loss of outlook from his property, all contrary to CP7, GE3 and GE2.

To conclude, the development will be overbearing and inappropriately large; the highways risk will increase; the drainage system will be put under pressure, and consent could lead to the destruction of the Battledown estate as an asset to the town as a whole. It is contrary to CP1, CP3, CP4b, TP1, CP7, GE3 and GE2.

Mrs Wendy Hopkins, agent, in support

There have been a substantial number of objections to this application, mostly relating to the Battledown covenant. Some say it should be taken into consideration in the determination of the application but that is not correct. As officers have made clear, a covenant is a legal matter between the Battledown Trustees and the applicant, not a 'planning' issue. It may be in the interests of some to draw this legal issue into the planning process, but this could be seen as manipulating the planning process, which would be deemed unreasonable. Knows and trusts that Members of the Planning Committee are able to distinguish material planning matters, and therefore relies on their professionalism in concurring with officer advice on this matter.

There are a number of other relevant planning matters raised in objection, summarised as relating to the principle of development, the layout and design, the impact on neighbours, highway safety and the impact on trees. The officer report deals with all of these matters comprehensively, and further information and drawings have been requested and submitted to the satisfaction of all consultees. Supports both the officer's report and recommendation.

Would add that Members will have noted on site visit that the majority of the site is well hidden from public vantage point along Birchley Road, only being revealed on entering the rear garden of this expansive site. The site is nearly twice the size of neighbouring properties, and the layout would be similar to that of Birchley House and Ash Tree House opposite. Each new dwelling would sit comfortably and retain the spacious feeling that is characterised by Battledown – large houses, large gardens, mature landscaping. Also, it will replace a dwelling of little architectural merit, adding to Cheltenham's rich architectural history and reflecting a high standard of design supported by Architects Panel.

Member debate:

SW: looking at this plot and the number of properties the applicant proposes to build there, cannot help but think that it could support 6-8 good-size dwellings in any other part of town. Noted on Planning View that the site drops considerably, which would make a large number of properties difficult to construct. Highways officers do not have any concerns that one property will be replaced by two; they do not consider it will make a significant difference to traffic issues.

LS: has a question and comment in on, regarding the deed of covenant. The report deals with this briefly and dismissively. Does it carry any weight in the planning process? Surely its purpose was to protect the historic character of the Battledown Estate, a valuable and unique part of the town.

TO: was concerned on Planning View to note that part of the proposal involves taking down a line of trees on the right-hand side of the site. These trees screen the view from the neighbour's property, and will take away amenity from the neighbours at the bottom of the garden.

BF: Officers said the design is acceptable, and the agent said that the replacement dwelling is of greater architectural merit than the existing house. Regarding the covenant, this has been in place for many years; recalls a similar covenant at Wild Perry House in Balcarras Road – when the houses were built, a covenant was in place for one dwelling on a particular plot but now there are three. This is a civil matter, a legal agreement between the owner of the site and the Battledown Trust; it is not a planning issue.

CH: what is the relationship between planning permission and covenants in the civil courts? What weight does having planning permission in place hold if someone applies to the civil court to have a covenant lifted? Which comes first – the planning permission or the application to lift the covenant – or is it up to the individual applicant?

NJ, in response:

- covenants and planning permissions are two completely separate issues. The granting of planning permission doesn't mean that the covenant will automatically be lifted and implementation of the planning permission take place. The covenant has to be dealt with separately, and is not a material consideration with which Members need concern themselves in their decision making.

MJC, in response:

- to TO, regarding the removal of the trees: yes, the new houses will be visible from the neighbouring properties, but the gaps between the houses remains generous – there will be an amenity impact but officers do not consider that this will be unacceptable, despite the loss of the trees;
- to BF, Members will remember that the application at Wild Perry House was refused because there was a covenant, but was subsequently allowed at appeal;
- LS commented that the officer report is dismissive of the covenant issue, but this is done deliberately, to deflect Members from dwelling on it when it is not a material consideration.

PT: are all the trees to be removed or will some of them remain? Would be sad to see the whole area denuded of beautiful trees.

LS: is concerned about the environmental impact of the removal of these trees – they play an important visual part in the view up Battledown Approach. Is concerned that this could be the thin end of the wedge, and the beginning of further development on the Battledown Estate. It's true that the houses stand in large plots, but this is an important part of the character of the area. This is a landmark application, and if permitted, the change could affect the whole town. Also, would like to highlight the strength of feeling in the community; Planning Committee is supposed to give a voice to this, not just to interpret policy etc. The weight of local concern is important for all Committee Members.

MB: has comments on two aspects of this application: firstly the design – is not a fan, although realises that this is a personal thing – but is particularly concerned about the height. Realises that no-one has a right to a view, but building a four-storey house into a hill will have a big impact and impose on the neighbouring property. Adding two storeys to what is currently there is definitely a consideration. Secondly, regarding the covenant, realises that this applies to a small area, a single site, and that it is not a planning consideration.

However, it is part of the whole area, and fundamentally linked with the character of the Battledown Estate. The covenant creates the atmosphere and character of the area. Is there any precedent where a covenant of this size has been considered in planning, where it cannot be separated from the character of the area?

CH: notes from highways officers' comments that Birchley Road is a private road. What is the role of a private road and how does it work in these circumstances?

BF: in response to both LS and MB, it is clear from the ordnance survey map attached to the report that Birchley House and Ash Tree House both stand in plots smaller than The Water Garden. Building two houses on this plot cannot be said to be altering the area. Members should recall Temple Garth, which was demolished and two or three houses put up on the site – the covenant wasn't mentioned at all.

CN: the covenant issue regularly comes up, and this is a case in hand, generating much discussion in Planning Committee. This is a question for the future: we can't relieve the disconnect between the two issues today, but is there any scope for the Cheltenham Plan to do so in the future. This would be a different approach - to consider any major covenants in the town and give them some planning weight, so provided potential teeth for Planning Committee rather than the Parish Council being left to use the legal process to object to a problem.

PB: we all want to represent the views of the public who elect us, but looking at this application objectively, it is a good scheme, a good design, on a plot capable of supporting it. Can't believe this is the first time an application of this kind has been submitted on the Battledown Estate, to build on a plot this size. The question remains whether the applicant can overcome the covenant, and this application raises an interesting point about conservation areas and their protection. Battledown Estate is an important area for the town – is there a way to conserve it going forward and give our conservation areas additional protection? For now, however, in view of the lack of housing supply in the town, it would be a waste in making this applicant go to appeal.

Regarding the trees, has gone back to look at the plans to see which of them are coming down. Trees add greatly to the amenity and enjoyment of an area, and would like to have a clear understanding of the landscaping scheme and where trees are to be removed.

SW: this application and the point raised earlier by CH is a good example to Members; as has previously been pointed out, the Chairman could put in a planning application to build in SW's garden if he wanted, but it would not happen – it would not be allowed to happen. The same applies to this application – if the covenant prevents the building of these two houses, they will not be built. Today, Members are considering if the application itself is viable and suitable; if they decide it is, it is for the applicant to take it forward.

KH: largely agrees with what PB has said. Respects the strength of feeling from neighbours, but the simple fact is that the planning authority is not able to take the Trustees' deed into account when making its decision; Members are therefore looking at a generous site which can easily accommodate what is being proposed. The design is unashamedly modern, but this too is not a reason to refuse. Cannot vote against it for these reasons. Neighbours say it will be a loss to the area and the community but cannot agree with this; it is up to the people living in the two dwellings, which also make a contribution to the housing need, albeit at the higher end. Regarding the broader issue of trust deeds, we can all think of examples round the country where deeds of covenant are used to protect large and beautiful properties, but times change and therefore worries that showing deference to these until the end of time should not be used to stop all development in the future.

PM: is on Charlton Kings Parish Council, the custodian of the boundary between the urban area and the AONB. Much of Cheltenham is in or borders on the AONB – Glenfall Way, the cricket ground, Little Herberts Road, Greenway Lane, Stanley Road, Charlton Kings

Common, Crickley Hill. Battledown Hill is adjacent to the AONB, and policy CO2 states that development in or close to the AONB must be landscaped to avoid harming the view in or out of the AONB. There was a planning application earlier this year for three houses at The Bredons in Harp Hill, which was permitted with little objection, because it was consistent with the covenant; this is true of other examples where other replacement dwellings where there is space to subdivide the plot. The problem here is that the plot is already full and no extra dwellings are permissible. The people who developed covenant were visionary - Battledown Hill is a unique feature in the Cheltenham environment, and should be protected in perpetuity. The officer report on The Bredons stated that the SPD 'Development on Garden Land and Infill Sites in Cheltenham' assists in the determination of planning applications, as it provides a consistent and robust means of assessing the context and character of residential areas, and of complementing and respecting the surrounding area. The report also refers to the spacious nature of the area on the edge of the AONB, provided by specific character, large individual properties in their own grounds, with mature landscaping, protected by covenant.

MJC, in response:

- There has been discussion about this being a watershed moment in planning in Battledown but the SPD tells us to make an objective judgement as to whether a proposal sits comfortably on a site; to repeat, the covenant is not a consideration here;
- Officers have used their judgement; as SW stated, this size plot could comfortably accommodate 7-9 units - this would be inappropriate to Battledown's unique character, but the SPD does not say 'thou shalt not develop';
- This scheme fits in well to the area; there is space round the buildings, and the plot is a good size; agrees with BF – at a basic level, looking at the sizes of plots and houses around, it is clear that, contextually, dividing the site for this proposed development is not inappropriate. Is the proposal appropriate to the character of Battledown? Officers feel that the space, landscaping features, trees etc are all entirely compatible, and that this is a sensible use of the land;
- Regarding covenants, these can help planners to make proper judgements about planning applications: if a proposal is compatible with a covenant, it can be permitted; if it isn't, planners have to make a robust decision based on policies and guidance;
- Regarding the loss of trees, these formed a side boundary of the site, and to the top corner there is a hedgerow where the trees will be removed. The trees in the public realm will be retained. The mature landscaping features will not be touched by the proposal;
- Regarding the conservation area status of the site, this area was not considered worthy of that status, and the SPD is therefore used to to protect Battledown where appropriate;
- It is fair to say that the two proposed dwellings would make a minor contribution to Cheltenham's housing supply – this would be raised at appeal;
- Regarding highways, this is a private road, and highways officers have applied best practice to the junction, finding it to be safe and suitable.

PT: MJC mentioned trees with red rings around them – are these coming out or staying in?

AL: the majority of the development is sensitive to the environment and surroundings, but the garage on the north side of the plot, where it comes out from the hill, will be very high. When viewed from Wellswood House, this appears as a cliff of bricks – and is therefore a point of concern. This cliff face is also viewable up Birchley Road. In principle, considers the proposed dwellings settle in well, but feels that this aspect needs to be addressed.

CC, in response:

- On the plans, the purple trees are to be removed, the red trees to be retained. The group of trees on Plot 1 by the garage – cypress trees, forming a hedge – serve a function, but their visual amenity is low.

MJC, in response:

- Regarding the relationship between Plot 1 and the neighbouring property, there will be some impact – there is no getting away from that – but taking into account the space between the properties and the amount of garden to be affected, officers do not feel that this will be unacceptable.

MB: regarding the size of the covenant and the areas affected, is more weight given depending on whether it applies to one plot or whole estate?

MJC, in response:

- Covenants are red herrings, not relevant to planning, whether they relate to one plot or a huge parcel of land. A covenant on a large piece of land carries no more weight than one on a small site.

Vote on officer recommendation to permit

8 in support

6 in objection

1 abstention

PERMIT

151. 17/00882/FUL 8 Bouncers Lane

Application Number:	17/00882/FUL
Location:	8 Bouncers Lane, Cheltenham
Proposal:	Construction of single storey dwelling between 8-10 Bouncers Lane
View:	Yes
Officer Recommendation:	Refuse
Committee Decision:	Permit
Letters of Rep:	31
Update Report:	None

EP introduced the application to build a single-storey dwelling between two semi-detached, two-storey properties on Bouncers Lane. The area is characterised by semi-detached dwellings, making the proposal out of keeping, cramped, and contrary to the SPD on garden land, as outlined in the report.

Public Speaking:

Mr Justin Laurence, applicant, in support

Has taken all officer comments on board regarding the street scene, taking account of the location in the street. The previous comments of the Architects' Panel have been taken into consideration, and neighbours and parish council are fully supportive of the scheme.

Councillor Payne, in support

Has been asked to bring this application to Planning Committee because of a difference of opinion on the impact on the streetscape. This is the third version of the scheme, with changes to the design requested by the planning officer. The Architects' Panel commented previously that the design was acceptable in principle – innocuous and acceptable - and supported the application. The second application was withdrawn, and the design further modified with the help of the planning officer. As noted by the office, Cheltenham cannot demonstrate a 5-year supply of building land, and the NPPF therefore promotes a presumption in favour of development unless the impact significantly and demonstrably outweighs the benefits. Regarding the impact, it is important to consider the setting: the report references Page 33 of the SPD, relating to the rhythm of the street scene, and in particular the 12 semi-detached houses on the west of Bouncer's Lane, originally built with a

clear pattern and separated by large gaps. Now, however, five of the 12 dwellings have significant side and/or rear extensions, which although well-designed and constructed have obliterated the gaps. There are over 100 dwellings in Bouncer's Lane, demonstrating a wide range of sizes and styles, including single-storey dwellings, the WI Hall, Prestbury Hall, and most of St Mary's School.

The officer report comments on the impact of the dwelling on neighbouring properties, referencing Policy CP4, but has never met an applicant who has taken the concerns of his neighbours to such length – has visited every neighbour who may be affected, none of whom have objected – the views of 31 neighbours should carry significant weight under the Localism Act. There are no highways objections either.

As a ward councillor, is passionate and protective of his ward, and has been critical of certain developments in the past, but has no hesitation in supporting this one. There is no substantive evidence to support the view that this development will have significant and demonstrable adverse impact on the neighbourhood. It is sustainable and well-designed, and demonstrably respects its setting.

Member debate:

PB: has sympathy with planning officers having to interpret applications in line with planning policy and guidelines; Members are more lucky and can take different views. This is a substantial plot, the design is contemporary and good. Will move to permit the application; it has great councillor and local resident support. It would have been easy for them to oppose it but they haven't, and there is a finite amount of building land in Cheltenham.

SW: also supports this scheme. Would have preferred to see a pitched roof. Officers would have accepted extensions to the two houses on either side of the plot, but this would not help with the town's housing need. The houses here are almost identical; this proposal is different but of good design, which is more important than worrying about whether it fits in. Something a bit different is needed along this road; is erring towards voting to permit.

BF: supports the officers here. Knows Bouncers Lane very well, and recognises that there is some diversification and change over the years, but this proposal is out of place. The semi-detached houses may be altered but they are still semi-detached houses. This is a detached bungalow, taking garden from its neighbours to make it viable. It changes the balance of that side of the road, which is predominantly semi-detached houses. It is a nice design – but not here.

HM: has no problems with developing this site sensitively, and the houses either side will have smaller but still good-sized gardens. There are examples of similar small dwellings elsewhere in town, and these are the kind of properties we need – bungalows suitable for elderly people, in a highly sustainable location, close to buses. Personally doesn't like the design but will vote in support.

PT: agrees with BF. Also knows Bouncers Lane well, and this proposal doesn't seem right and stands out. Why not a chalet bungalow with a pitched roof? Will not support it.

CH: also knows Bouncers Lane well. The plot can take a house but doesn't find this design appropriate. Looking around town where buildings like this are fitted in, in most cases they stand out. This proposal sits behind a hedge. In some respects, it is difficult to say it will detract wildly, but it will be obvious that there is a house dropped in and hidden. It detracts from the semi-detached houses, and sits uncomfortably in the location. Will support the officer's recommendation.

EP, in response:

- The SPD is purposely designed for this type of scenario – where there is a dominant pattern of development, to avoid deviation from that;

- If Members are minded to approve, it would be helpful to know why they feel it is acceptable to make an exception to normal policy requirement.

SW: we need more houses. This is a significant plot – a property can easily fit in there. Officers say the existing houses could be extended but that wouldn't held the housing need. We need more development. This is only one property.

PT: was it suggested that the proposal could be a chalet bungalow or have a pitched roof?

EP, in response:

- Had a series of discussions with the applicant, including a scheme for a pitched roof. From an officer perspective, it is about analysis of the character of the area – the concern is that the gap between houses, which is characteristic of the area, will be filled. A pitched roof would make is a mini-version of other properties on the street, which would be jarring.

PB: the advice for planners is always to consider each application on its merits. Officers consider proposals against policies, and the wording of particular policies allows the leeway to look at each on its merits. This plot can take a building. It is a subtle addition to the street. The people in the area support it, and residents like it. Will therefore struggle to vote against it.

Vote on officer recommendation to refuse

7 in support

8 in objection

NOT CARRIED

Vote on PB's move to permit

8 in support

7 in objection

PERMIT

152. 17/00386/FUL 8 Hartley Close

Application Number:	17/00386/FUL
Location:	8 Hartley Close, Cheltenham
Proposal:	Two-storey side and rear extension and external remodelling
View:	Yes
Officer Recommendation:	Permit
Committee Decision:	Permit
Letters of Rep:	18
Update Report:	None

MJC introduced the application as above, with a recommendation to permit. It is at Committee at the request of Councillor Baker, in view of the concerns raised by neighbours.

Public Speaking:

Mr Malcolm Sheppard, neighbour, in objection

Thanked Members for visiting the site on Tuesday, explaining that the neighbours have no objection in principle to house extensions but are concerned at how this application accords with the integrity of the neighbourhood. The planning officer states that it is 'sustainable development'. Neighbours would say that Hartley Close, built in the early '70s, is a fine example of 'sustainable development' and a 'sustainable environment' too. Over the years, several properties have had additions, some substantial, but maintaining the original open qualities of the Close. However, the prominent position of No. 8, the design and scale of the

remodelling, will profoundly disrupt the character of the street scene, and be particularly overbearing on No. 10 next door. The doubling of the western flank, north to south, with a new gable extending to the original house ridge, makes the wing the dominant component of the dwelling, rather than a subordinate addition, in breach of CP7. That policy also requires windows to match the original in form and colour, which is plainly not the case here, on the street side elevations. Amenity and environment will also be compromised, as set out in CP1. There has been a limited retreat from the ambitions of the initial application and shifts in lay-out to the side, which have aggravated rather than complemented the relationship of the proposal with its surroundings. Outlook is still significantly affected, and the design could become a catalyst for harmful future development. Hartley Close residents consider themselves fortunate to live in a spacious, open environment, and wonder if it need this type of contemporary 'fix'. Urges the committee to withhold approval until the proposal marries more sympathetically to the scene.

Member debate:

PB: congratulates officers on what they have achieved so far with this scheme – this original proposal was horrendous, and the current proposal is far more acceptable. However, it is still out of keeping with the character of Hartley Close in scale, mass and design, in contravention of CP1. Unlike the previous application considered tonight, where there was no opposition from neighbours, here there is. Hartley Close is a special road, which has been carefully looked after and maintained over the years. If not refused, would ask that the decision be deferred, to look at further reduction of the mass of the extension. Is not comfortable with the proposal as it stands; it has come a long way but could still be better.

BF: the speaker's comments highlighted a constant theme of tonight's applications – how properties fit in the street scene, and how needs and requirements change and evolve over 20, 30, 50 years. Most 50-year-old properties have evolved to some extent. The bungalow proposed in Bouncers Lane will help with the housing need, but the properties in Hartley Close and Sandy Lane are getting bigger, because of people's needs and ambitions for their properties are changing, which will inevitably alter the balance of the area. This proposal just about fits in, so cannot vote against it, but is also bearing in that mind what is permitted here and elsewhere will make the area look different. Likes the brickwork in the proposal, and on balance, will vote with the officer recommendation.

MJC, in response:

- Regarding PB's comments on refusal on CP1 or deferral, as PB said, a lot of work has already been done from the start of this application process, and doesn't think any more progress can be made. All the stops have been pulled out to get to this position, and Members should determine the application on what is before them tonight.

Vote on officer recommendation to permit

12 in support

3 in objection

PERMIT

153. 17/00759/FUL Cheltenham Cemetery and Crematorium - DEFERRED

Application Number: 17/00759/FUL
 Location: Cheltenham Cemetery & Crematorium

DEFERRED

154. 17/00670/LBC Neptune's Fountain, Promenade

Application Number:	17/00670/LBC
Location:	Neptune's Fountain
Proposal:	Fitting of stainless steel clamps to coping and stainless steel skewers to horse's head to prevent separation
View:	Yes
Officer Recommendation:	Grant
Committee Decision:	Grant
Letters of Rep:	0
Update Report:	None

AD introduced the application as above, explaining that the work is required to prevent the horse's head from falling off. The application is at Committee because the fountain is owned by the local authority. The recommendation is to grant permission.

Public Speaking:

None.

Member debate:

None.

Vote on officer recommendation to grant

15 in support – unanimous

GRANT

155. 17/00920/LBC Cenotaph, Promenade

Application Number:	17/00920/LBC
Location:	Cenotaph, Promenade, Cheltenham
Proposal:	To renew 4 number lamps around the war memorial in the Promenade, Cheltenham, with new fabricated globe and cap fittings
View:	Yes
Officer Recommendation:	Delegate authority to officers
Committee Decision:	Delegate authority to officers
Letters of Rep:	0
Update Report:	None

MJC introduced the application as above, which builds on an application considered by Members a few months ago. More information about what the lamps originally looked like has informed this application, and the recommendation is the delegate authority back to officers to issue the decision. The reason for this is that consultation is still underway with the War Memorial Trust, and this needs to run its course before a decision is made.

Public Speaking:

None.

Member debate:

CH: answering his own question from a previous Planning Committee, confirmed that the lamps do work, and are not merely for ornament.

Vote on officer recommendation to grant

15 in support – unanimous

GRANT

156. 17/00827/CACN 41 Church Road, Swindon Village

Application Number:	17/00827/CACN
Location:	Fortune Cottage, 41 Church Road, Swindon Village
Proposal:	Fell 2 conifers adjacent to Church Road
View:	Yes
Officer Recommendation:	TPO western tree by entrance; no objection to removal of eastern tree by car port
Committee Decision:	As above
Letters of Rep:	5
Update Report:	None

BF declared an interest in this application and left the Chamber during the debate.

CC introduced the application as above, at Planning Committee at the request of Councillor Clucas, in view of objections from neighbours. Has no objection to the tree by the car port being removed, but would like to see the tree nearest the entrance retained.

Public Speaking:

None.

Member debate:

MC: likes trees, and unless there is a legitimate reason to remove them, they should be retained. They shouldn't be removed just because they don't fit in with the owner's wishes. On site, it was mentioned that a new tree could be planted in place of the one which may be removed, though assumes this isn't legally binding.

CC, in response:

- Replacement of trees cannot be enforced, though the applicant probably will do this.
- The first tree could be damaging the wall, though this can be remedied by removal of branches.

Vote on officer recommendation to TPO the western tree by the entrance, and raise no objection to the removal of the eastern tree by the car port

14 in support – unanimous

RECOMMENDATION CARRIED

157. 17/01097/CONF 30 Moorend Park Road

Application Number:	17/01097/CONF
Location:	30 Moorend Park Road
Proposal:	Confirmation of TPO no 746 Wellingtonia to the rear of property and oak tree to the side of property
View:	Yes
Officer Recommendation:	Order is confirmed
Committee Decision:	Order is confirmed
Letters of Rep:	2
Update Report:	None

CC introduced the application, which has arisen from a pre-emptive TPO placed on these two trees several weeks ago, when one was about to be removed and the other was about to have inappropriate work carried out on it, with no protection. A resident living nearby subsequently objected, saying the trees are too close to her property, drop needles and branches in her garden. Has brought the application to Committee, for Members to decide whether or not the trees are worthy of TPOs.

Public Speaking:

None.

Member debate:

PT: on Planning View, the tree at the back was referred to as a *Sequoia*; in the report it is referred to as a *Wellingtonia*.

PM: the trees appear to be very old – 70-80 years – making them older than the bungalow. Is that correct?

AL: the neighbour has suggested that the tree is dropping branches, which is likely to be dangerous. Does the judgement on the health of the tree take account of this – does CC think it could be dangerous?

CC, in response:

- To PT, apologies – *Sequoia* and *Wellingtonia* are one and the same;
- In his 25-year experience, has never seen one of these trees fall over, though it's true to say that they do occasionally drop branches, which can be unpredictable;
- Would do something about it if it was considered dangerous; it appears to be safe, although the only way to make a tree completely safe is to chop it down;
- To PM, the tree has been there much longer than the bungalow.

Vote on officer recommendation to confirm TPO No. 746

15 in support - unanimous

Order confirmed

The meeting ended at 8.30pm

158. Any other items the Chairman determines urgent and requires a decision

None.

Chairman

The meeting concluded at Time Not Specified